

ORIGINAL

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NSCSLR:KAN:TYH  
F#:2008V01134UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,

Plaintiff,

- against -

FUNDS IN THE AMOUNT OF EIGHTY  
 THOUSAND, SEVEN HUNDRED  
 SIXTY-THREE DOLLARS AND FORTY-SIX  
 CENTS, (\$80,763.46) MORE OR LESS, AND  
 ALL PROCEEDS TRACEABLE THERETO,  
 FORMERLY ON DEPOSIT IN ACCOUNT  
 NO. 801933071 IN THE NAME OF AND/OR  
 FOR THE BENEFIT OF GCI TECHNOLOGIES,  
 CORP., AT PNC BANK,

Defendant.

----- X

Plaintiff, United States of America, by its attorney, BENTON J. CAMPBELL,  
 United States Attorney for the Eastern District of New York, TANYA Y. HILL, Assistant United  
 States Attorney, of counsel, for its complaint alleges upon information and belief as follows:

**NATURE OF THE ACTION**

1. This is a civil action in rem brought by the United States of America to  
 forfeit and condemn to the benefit of the United States of America the above-captioned  
 defendant Funds, in the amount of eighty thousand seven hundred, sixty-three dollars and forty-  
 six cents (\$80,763.46), more or less, and all proceeds traceable thereto (the "Defendant Funds")

BROOKLYN OFFICE

**VERIFIED  
COMPLAINT IN REM**

Civil Action No.

09 906

COGAN, J.

which were seized July 11, 2008 pursuant to a seizure warrant issued from this district. The Defendant Funds were contained in account no. 8019333071, in the name of and/or for the benefit of GCI Technologies, Corp., at PNC Bank (the “PNC account”).

2. The Defendant Funds are subject to forfeiture pursuant to: (a) 18 U.S.C. § 981(a)(1)(A) as property involved in money laundering transactions or attempted money laundering transactions, in violation of 18 U.S.C. § 1956, or any property traceable thereto; (b) 21 U.S.C. § 881(a)(6), as monies furnished or intended to be furnished in exchange for a controlled substance in violation of the Controlled Substances Act (the “CSA”), 21 U.S.C. §§ 841 et seq.; and/or (c) 31 U.S.C. § 5317, as monies involved in violations of, or attempts to violate, federal reporting requirements under 31 U.S.C. § 5324.

#### JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1345 and 1335.

4. Venue is proper pursuant to 28 U.S.C. §§ 1335 and 1339 in that some of the acts and omissions giving rise to the forfeiture occurred in the Eastern District of New York.

#### FACTS

5. On February 29, 2008, United States Magistrate Judge Lois Bloom issued a seizure warrant for, among other accounts, Citibank account number 3200362075 in the name Gemini Sound Products (the “Gemini account”), 1 Mayfield Avenue, Edison, NJ 08837. On March 3, 2008, the seizure warrant was served on the Gemini account, and resulted in the seizure of \$16,394.54 in United States Currency.

6. In issuing the seizure warrant, the Court found that there was probable cause to believe that the Gemini account, as well as all proceeds traceable thereto, were subject to seizure and forfeiture pursuant to: (a) 18 U.S.C. §§ 981(a)(1)(A) and 982(a)(1), as property involved in money laundering transactions or attempted money laundering transactions, in violation of 18 U.S.C. § 1956, or any property traceable thereto; (b) 21 U.S.C. § 881(a)(6), as monies furnished or intended to be furnished in exchange for a controlled substance in violation of the CSA, 21 U.S.C. §§ 841 *et seq.*; (c) 31 U.S.C. § 5317, as monies involved in violations of, or attempts to violate, federal reporting requirements under 31 U.S.C. § 5324; and/or (d) 21 U.S.C. § 853, as property constituting or derived from proceeds obtained as a result of violations of the CSA. The Court's findings were based, in part, on the following information.

7. Analysis of the Gemini account revealed twenty-one (21) counter deposits, totaling \$97,158.00, made between February 23, 2007 and March 3, 2008 in New York, Florida and New Jersey. The cash deposits were primarily in amounts which ranged from \$2,450 to \$9,000, with most of them in amounts between \$4,000 and \$5,000. A total of \$96,591.00 was deposited in various cash amounts. One check, in the amount of \$567.00, was deposited on November 1, 2007. Deposited in this way, the deposits appear to have been "structured" or deposited in a manner intended to avoid the reporting requirements set forth in 31 U.S.C. § 5313 and 31 C.F.R. § 103.22.<sup>1</sup> For example, cash deposits which in the aggregate exceed \$10,000, are

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<sup>1</sup>Domestic financial institutions are required by law and regulation to file a Currency Transaction Report (IRS Form 4789, or "CTR") with the Internal Revenue Service for each transaction in currency, such as a deposit, withdrawal, exchange of currency or other payment or transfer by, through or to a financial institution, in excess of \$10,000. 31 U.S.C. § 5313; 31 U.S.C. § 103.22. CTR's are filed with the Internal Revenue Service on forms which require, among other things, the identity of the individual who conducted the transaction and the individual or organization for whom the transactions were completed. CTR's are required to be filed to assist the government in criminal, tax and regulatory investigations and proceedings, as

broken down into individual deposits of under \$10,000, or "structured," before being deposited into the businesses' accounts.

8. Shortly after each cash deposit transaction, checks were written, payable to GCI Technologies, and deposited into the PNC account. All those checks had "Sonido International" written in the "for" section of the checks, and the amounts corresponded roughly to the structured cash deposits described above in paragraph 7.

9. A special agent with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement, contacted a Citibank compliance officer in connection with the Gemini account and the structured cash deposits described above in paragraph 7. The Citibank compliance officer advised that he had conversations with Gemini's controller, Mr. Steve Wergbrit in both August and September of 2007. Mr. Wergbrit explained to the Citibank compliance officer that two cash deposits, one on February 26, 2007 for \$4,500 and the other on February 23, 2007 for \$9,000, were both client payments. Mr. Wergbrit further stated that the funds were transferred to GCI, a company related to Gemini South Products Corp. Mr. Wergbrit assured the compliance officer that he understood the structuring issue and its implications, said that these were not common occurrences, and stated that he would try to avoid the situation in the future.

10. Despite that warning, structuring continued in the Gemini account, as described above in paragraph 7, through March 2008. From an analysis of the Gemini account, it appears that it was used exclusively for the structured cash deposits and transfer of said funds into the PNC account. As such, these transactions are consistent with Black Market Peso Exchange ("BMPE") money laundering activity.

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stated in Title 31, Code of Federal Regulations, Sections 103.15, 103.22 and 103.27.

11. BMPE is a money laundering method used to remit narcotics proceeds to narcotics suppliers in Colombia, South America. One BMPE method involves the use of bank accounts held by United States businesses that sell legitimate products to customers in Colombia. Narcotics proceeds are deposited into these businesses' accounts in the United States, purportedly on behalf of Colombian customers who need to pay for the goods they purchase in United States dollars. The customers then pay for the narcotics proceeds deposited in United States dollars on their behalf with Colombian pesos, which are then turned over to the narcotics distributors in Colombia. This method, one of many employed as part of the BMPE, permits narcotics traffickers to layer their financial transactions and thus launder their illegal proceeds without having to incur the risk of transferring the narcotics proceeds from the United States to Colombia or the expense of converting the proceeds to Colombian pesos. At the same time, this method allows customers in Colombia to pay for products in the United States without having to convert pesos to dollars, and thereby avoid any fees or duties that might otherwise apply.

12. To insure that the use of the narcotics proceeds to pay for the goods is anonymous, the proceeds, which are often in the form of cash or money orders, are structured or deposited into the accounts of the United States businesses in a manner intended to avoid the reporting requirements set forth in 31 U.S.C. § 5313 and 31 C.F.R. § 103.22.

13. As stated above, structured cash deposits totaling \$97,158.00 were deposited into the Gemini account, and, of that, only \$16,394.54 was seized pursuant to the seizure warrant executed on March 3, 2008. The cash deposited into the PNC account is traceable to the Gemini account by way of the checks written to GCI Technologies. The difference between the \$97,158.00 deposited into the Gemini account and the \$16,394.54 seized

pursuant to the seizure warrant described above in paragraphs 5 and 6 is \$80,763.46, the Defendant Funds which were seized from the PNC account.

14. Based on the foregoing, it appears that the PNC Account has been used to launder narcotics proceeds and facilitate the remittance of narcotics proceeds to South America and that it is subject to forfeiture under 18 U.S.C. § 981(a)(1)(A), 21 U.S.C. § 881(a)(6) and 31 U.S.C. § 5317(c).

**FIRST CLAIM FOR RELIEF**

15. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 14 above as if fully set forth herein.

16. The Defendant Funds constitute property involved in money laundering transactions and/or attempted money laundering transactions or is traceable to such property.

17. As a result of the foregoing, the defendant funds are subject to condemnation and forfeiture to the United States of America in accordance with the provisions of 18 U.S.C. § 981(a)(1)(A).

**SECOND CLAIM FOR RELIEF**

18. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 14 as if fully set forth herein.

19. The Defendant Funds are moneys furnished or intended to be furnished in exchange for a controlled substance or listed chemical in violation of the Controlled Substances Act, 21 U.S.C. §§ 841 et seq., or moneys used or intended to be used to facilitate a violation of the Controlled Substances Act.

20. As a result of the foregoing, the Defendant Funds are liable to condemnation and forfeiture to the United States for its use, in accordance with the provisions of 21 U.S.C. § 881(a)(6).

**THIRD CLAIM FOR RELIEF**

21. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 14 above as if fully set forth herein.

22. The Defendant Funds constitute property involved in a violation of 31 U.S.C. § 5324.

23. As a result of the foregoing, the defendant funds are subject to condemnation and forfeiture to the United States of America in accordance with the provisions of 31 U.S.C. § 5317(c).

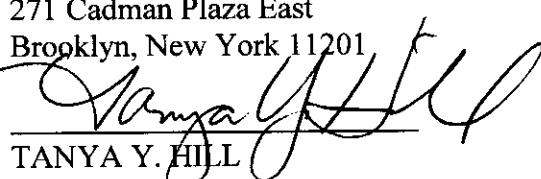
WHEREFORE, plaintiff, United States of America, requests that a Warrant of this Court issue for the arrest of the Defendant Funds; that due notice of these proceedings be given to all interested persons; that the Defendant Funds be forfeited and condemned to the use and benefit of the United States of America; and that plaintiff be awarded its costs and disbursements in this action and for such other and further relief as this Court deems just and proper.

Dated: Brooklyn, New York

March 4, 2009

BENTON J. CAMPBELL  
United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201

By:

  
TANYA Y. HILL  
Assistant United States Attorney  
(718) 254-6144

VERIFICATION

1. I am a Special Agent with the United States Department of Homeland Security, Immigration & Customs Enforcement.
2. I have read the Verified Complaint In Rem in this action.
3. The matters contained in the within Verified Complaint In Rem are true and accurate to the best of my knowledge, information and belief.
4. The source of my information and the grounds for my belief are my personal knowledge, information provided by other law enforcement officers and the official files and records of the United States Department of Homeland Security.
5. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: Brooklyn, New York  
March 4, 2009

  
\_\_\_\_\_  
GRAHAM R. KLEIN  
Special Agent  
Immigration & Customs Enforcement  
United States Department of Homeland Security

SIR:

PLEASE TAKE NOTICE that the within will be

presented for settlement and signature to the Clerk  
of the United States District Court in his office at the

UNITED STATES DISTRICT COURT U.S. Courthouse, 225

Cadman Plaza East, EASTERN DISTRICT OF NEW YORK

Brooklyn, New York, on the \_\_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at 10:30 o'clock in the forenoon.

Dated: Brooklyn New York,

20\_\_\_\_

United States Attorney,  
Attorney for \_\_\_\_\_

To: \_\_\_\_\_  
Attorney for \_\_\_\_\_

Attorney for \_\_\_\_\_

- against -

FUNDS IN THE AMOUNT OF EIGHTY THOUSAND, SEVEN  
HUNDRED SIXTY-THREE DOLLARS AND FORTY-SIX  
CENTS, (\$80,763.46) MORE OR LESS, AND ALL  
PROCEEDS TRACEABLE THERETO, FORMERLY ON  
DEPOSIT IN ACCOUNT NO. 80198333071 IN THE NAME  
OF AND/OR FOR THE BENEFIT OF GCI TECHNOLOGIES,  
CORP., AT PNC BANK.

Defendant.

VERIFIED COMPLAINT IN REM

BENTON J CAMPBELL  
United States Attorney,  
Attorney for United States of America,  
Office and Post Office Address,  
United States Attorney's Office  
271 Cadman Plaza East, 7th Floor  
Brooklyn, New York 11201

SIR:  
PLEASE TAKE NOTICE that the within is a  
true copy of \_\_\_\_\_ duly entered herein  
on the \_\_\_\_\_ day of \_\_\_\_\_

in the office of the Clerk of  
the Eastern District of New York,

Dated: Brooklyn, New York

20\_\_\_\_  
Dated: \_\_\_\_\_, 20\_\_\_\_

Due service of a copy of the within  
is hereby admitted.

United States Attorney,

Attorney for \_\_\_\_\_

To: \_\_\_\_\_

Attorney for United States of America  
AUSA, TANYA Y. HILL (718) 254-6144

Attorney for \_\_\_\_\_

Civil Action No. CV \_\_\_\_\_

UNITED STATES DISTRICT COURT  
Eastern District of New York

UNITED STATES OF AMERICA

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## (1) (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

09 906

(c) Attorney's (Firm Name, Address, and Telephone Number)

AUSA Tanya Y. Hill, U.S. Attorney's Office-EDNY  
271 Cadman Plaza East, Brooklyn, NY 11201 (718) 254-6144

## (b) BASIS OF JURISDICTION (Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question  
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEF
Individually or in a capacity as Business in This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 892 Economic Stabilization Act
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 894 Energy Allocation Act
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes

## (V) ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from

State Court

 3 Remanded from  
Appellate Court 4 Reinstated or  
Reopened 5 Transferred from  
another district  
(specify) 6 Multidistrict  
Litigation 7Appeal to District  
Judge from  
Magistrate  
Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 U.S.C. § 981

## (VI) CAUSE OF ACTION

Brief description of cause:  
ForfeitureVII. REQUESTED IN  
COMPLAINT: CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S)

(See instructions):

IF ANY

JUDGE

DOCKET NUMBER

DATE

3/4/09

SIGNATURE OF ATTORNEY OF RECORD

AUSA Tanya Y. Hill

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

BMC

MAG. JUDGE

RER

09-906

**ARBITRATION CERTIFICATION**

I, Tanya Y. Hill, counsel for United States of America do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs. Relief other than monetary damages is sought.

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**Please refer to NY-E Division of Business Rule 50.1(d)(2)**

1.) Is the civil action being filed in the Eastern District of New York removed from a New York State court located in Nassau or Suffolk County? No

2.) If you answered "no" above:

a.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No

b.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.**

Yes ✓

No \_\_\_\_\_

**Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?**

Yes \_\_\_\_\_ (If yes, please explain)

No ✓

Please provide your E-MAIL Address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court.

(This information must be provided pursuant to local rule 11.1(b) of the civil rules).

**ATTORNEY BAR CODE: 2241503**

**E-MAIL Address: tanya.hill2@usdoj.gov**

I consent to the use of electronic filing procedures adopted by the Court in Administrative Order No. 97-12, "In re Electronic Filing Procedures(EFP)", and consent to the electronic service of all papers.

Signature: Tanya Y. Hill